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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,568	06/24/2003	Carol L. Erdman	53394.000536	2376

7590 01/26/2005

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EXAMINER

SHEIKH, HUMERA N

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/601,568

Applicant(s)

ERDMAN, CAROL L.

Examiner

Humera N. Sheikh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Status of the Application

Claims 1-22 are pending. Claims 1-22 are rejected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Tramontana (WO 99/64083).

Tramontana discloses an absorbent article and method for preparing the absorbent article, containing a liquid permeable material; a liquid impermeable material; an absorbent material or a combination of absorbent materials between the permeable and impermeable layers; and adhesive wherein the adhesive contains essential oils for beneficial effects to the skin (see reference page 3, lines 1-12); (page 7, lines 6-21); examples and claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tramontana (WO 99/64083).

Tramontana teaches an absorbent article and method for preparing the absorbent article, containing a liquid permeable material; a liquid impermeable material; an absorbent material or a combination of absorbent materials between the permeable and impermeable layers; and adhesive wherein the adhesive contains essential oils for beneficial effects to the skin (see reference page 3, lines 1-12); (page 7, lines 6-21). The absorbent article can be of various forms, such as sanitary napkins, tampons, diapers and wipes (page 5, lines 11-16). The absorbent article contains fragrant emitting and microbe inhibiting additive (page 1). Tramontana explicitly teaches rosemary oil as the preferred essential oil in effective amounts between about 0.1 and about 8 wt. percent, which meets the applicant's claimed ranges (see page 3, lines 24-31); (page 5, lines 3-5) and Tables 1 & 2. The instant invention is drawn to an absorbent article comprising a top and back sheet material; an absorbent core between the top and back sheet material and an adhesive wherein at least some of the adhesive comprises a skin care benefit-effective amount of

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a skin wellness ingredient. There is no significant difference observed between the instant invention and the absorbent article formulation of Tramontana. Such a formulation is expressly taught, containing a liquid permeable material representing the body-contacting surface; the liquid impermeable material represents a barrier (opposite surface); an absorbent material and an adhesive. Tramontana teaches that adhesives are excellent carriers for essential oils (page 8, line 32 & page 9, line 1). The use of adhesives can improve the add-on level and placement of essential oils. The adhesive also serves as a binder material that can reduce the amount of essential oils lost prior to use (page 9, lines 2-4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to formulate an absorbent article wherein the adhesive contains a skin-benefiting agent because adhesives are excellent carriers for essential oils; they can improve the add-on level and placement of essential oils and in addition serve as a binder material that can reduce the amount of essential oils lost prior to use. The expected result would be an absorbent article providing skin care benefits through the use of essential oils and fragrant-emitting additives contained within the adhesive.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Humera N. Sheikh whose telephone number is (571) 272-0604. The examiner can normally be reached on Monday through Friday from 8:00A.M. to 5:30P.M., alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H. N. Sheikh *H.N.S.*

Patent Examiner

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January 19, 2005

Thurman A. Page
THURMAN A. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600